IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5101 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
JANUARY 22, 2007.

Heard Shri Kakde, learned counsel for the petitioner.

The challenge in this writ petition is to the orders dated 27.6.2005 and 1.8.2005. By order dated 1.8.2005, the Ad-hoc Additional District Judge, Akola, has rejected application at Exh. 5 for stay moved by the petitioner in Regular Civil Appeal No. 66 of 2005. The said RCA has been filed by the petitioner seeking stay of execution and operation of decree dated 15.4.1996 in Regular Civil Suit No. 26 of 1985 and of order dated 27.6.2005 passed below Exh. 18 in R.D. No. 55 of 2003.

The lower appellate Court has noticed that appellant before it purchased lands during the pendency of RCS No. 26 of 1985. It further noticed that possession of these lands has already been delivered to decree holder through Court process. The contention of

present petitioner that it was only symbolic or paper possession has not been accepted. The appellate Court has observed that such contention can be considered while considering the appeal finally. The appeal is still stated to be pending. The matter is pending before this Court since 26.9.2005 without any orders.

In the circumstances, I find that interest of justice can be met by expediting proceedings in RCA No. 66 of 2005. Ad hoc Additional District Judge, Akola, before whom said appeal is pending shall decide the appeal as early as possible and in any case within a period of eight months from the date of communication of this order to him. Insofar as merits are concerned, I do not find any jurisdictional error or perversity in the approach of lower appellate Court while deciding the case at prima facie stage.

Hence, with the above directions, writ petition is disposed of. No order as to costs.

JUDGE

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